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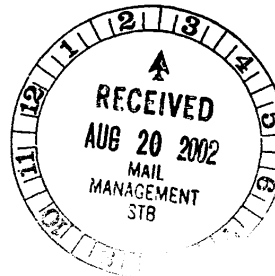
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August 20, 2002

VIA FACSIMILE and MAILMr. Vernon Williams, Secretary
Office the Secretary
Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, D.C. 20423-0001ENTERED
Office of Proceedings

AUG 20 2002

Part of
Public Record**RE: Finance Docket 34192 - Hi-Tech Trans, LLC - - Petition for Declaratory Order - - Hudson County, NJ**

Dear Mr. Williams:

We are special counsel to the New Jersey Department of Environmental Protection ("NJDEP"), having entered our appearance on July 18, 2002 in place of the firm of Kirkpatrick & Lockhart, LLP.

We are in receipt of correspondence from Mr. John F. McHugh, counsel for Hi-Tech Trans, LLC, dated August 15, 2002, in which he has forwarded a copy of certain court pleadings he filed on behalf of his client in the United States District Court for the District of New Jersey on August 7, 2002. We are also in receipt of a letter to the Board from Mr. Benjamin Clarke, counsel for Essex County Utilities Authority and Hudson County Improvement Authority, dated August 16, 2002, which responds to Mr. McHugh's letter of the previous day.



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Mr. Vernon Williams, Secretary
August 20, 2002
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As this correspondence may have caused some confusion, the purpose of this letter is to advise the Board that NJDEP believes that the Board's ability to decide the matters raised in Hi-Tech's Petition for Declaratory Relief is not affected by the recent action initiated by Hi-Tech in the court and that the Board should issue a decision in this matter. NJDEP's position on the merits of the Hi-Tech petition is of course set forth in the Reply it filed, on June 6, 2002, to Hi-Tech's Amended Petition for Declaratory Relief, namely that the Board should dismiss the petition because: of its lack of jurisdiction over the State of New Jersey due to the 11th Amendment; Hi-Tech is not a railroad and does not provide rail transportation within the meaning of 49 U.S.C. § 10501(b); and the State of New Jersey solid waste management statutes and regulations are not otherwise subject to challenge on the various grounds argued by Hi-Tech. Since the deficiencies of the petition that the State has pointed out in its reply are all straightforward matters of law, there is nothing to prevent the Board from acting on the State's request for dismissal.

Very truly yours,



Edward D. Greenberg

EDG/gmr

cc: See Attached Service List

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DATE: August 20, 2002

TO: The Honorable Vernon A. Williams

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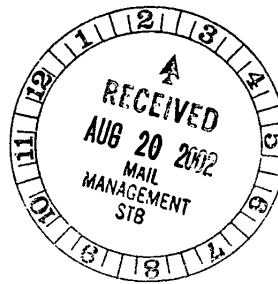
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IF ANY DIFFICULTY RECEIVING THIS FAX, CONTACT (202) 342-6771. THANK YOU!



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